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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,146	01/13/2005	Klaus-Dieter Hammer	22135-00026-US	2776
30678 7590 10/31/2007 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20036			EXAMINER KASHNIKOW, ERIK	
			ART UNIT 4174	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/521,146

Applicant(s)

HAMMER ET AL.

Examiner

Erik Kashnikow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 01/13/2005.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-9 and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (EP 0 190 630).
2. In regards to claim 1 Smith teaches ready to stuff pre moisturized food casings and methods for their manufacture (page 8 bottom paragraph). Smith teaches that an antimicrobial agent, preferably an alkyl ester of p-hydroxybenzoic acid be included to prevent the development of molds and fungi (page 10 bottom paragraph). Smith teaches that polymer based plastics can be used as the casing (page 17 bottom paragraph).
3. In regards to claims 2, 14 and 15 Smith teaches that the preferred antimycotic agents are the lower alkyl (C<sub>1</sub>-C<sub>7</sub>) esters of p-hydroxybenzoic acid (page 13 middle paragraph).
4. In regards to claims 3-5 and 16 Smith teaches that propylene glycol can be added to the liquid used to pre-moisturize the foodstuff casing (last paragraph page 11- first paragraph page 12). While Smith is using this compound as a plasticizer the compound still retains its water reducing antimicrobial properties.
5. In regards to claims 6 and 7 Smith teaches carboxy methyl cellulose, a derivative of cellulose may be added to the interior walls to act as a low temperature peeling aid (page 19 bottom paragraph).

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6. In regards to claim 8 and 17-19 Smith teaches a process for production of foodstuff casings in which the casing is premoistened with a solution that contains an effective amount of the antimycotic agent. The effective amount is defined as 0.2-0.5% percent by weight of the liquid (Page 9 bottom of first paragraph). Smith also teaches that in the preferred embodiment of the invention, that propylene glycol is present in amounts of 0-10% by weight of the liquid (page 9 first paragraph). This would give ranges of 0.2-10.5% by weight of the liquid for the antimycotic agents. This completely covers applicant's range.

7. In regards to claim 9 Smith teaches in his examples that solutions are applied in one aqueous step (pages 20-23).

8. In regards to claims 13 and 20 smith teaches that his invention relates to ready to fill pre-moistened food casings with an antimycotic nature and specifically points out the fact that sausage casings can be made this way (page 10 bottom paragraph).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (EP 0 190 630) in view of Quinones et al. (US 6,183,826).

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11. As stated above Smith teaches a ready to fill foodstuff casing, which contains an antimycotic agent. However Smith is silent regarding spraying the solution containing the antimycotic agent onto the foodstuff casing.

12. In regards to claims 10 and 11 Quinones et al. teach that it is common in that art to coat the casings, especially the inner side of the casing, using a spray during the shirring process (column 7 line 54 to column 8 line 9).

13. It would be obvious to one of ordinary skill in the art at the time of the invention to combine the method of Smith with the spray of Quinones et al. because it provides an economical and fast way to lubricate the casing and to promote high speed shirring (column 2 lines 5-11).

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (EP 0 190 630) in view of Quinones et al. (us 6,183,826) in further view of Hammer et al. (US 4,543,282).

15. As stated above Smith and Quinones et al. teach a method for producing ready to fill foodstuff casings, which involve spraying the inner side of the casing while shirring. However they are silent regarding the addition of a compound to improve peelability in the spray.

16. Hammer et al. teach a process for making foodstuff casings with improved peelability. This process includes coating the inner surface of the foodstuff casing with compounds such as water soluble cellulose ethers and starches (column 2 line 60 to

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column 3 line 4). Hammer et al. further teach that this can be applied by spraying (column 6 lines 29 through 39).

17. It would be obvious to one of ordinary skill in the art at the time of the invention to add a compound that improves peelability to the spray in Smith and Quinones because the invention of Hammer et al. makes it easy to peel the sausage from the sausage casing, which limits the chances that sausage casing may break while being peeled from the sausage mixture (column 2 lines 39-45).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erik Kashnikow whose telephone number is (571) 270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (First Friday off).

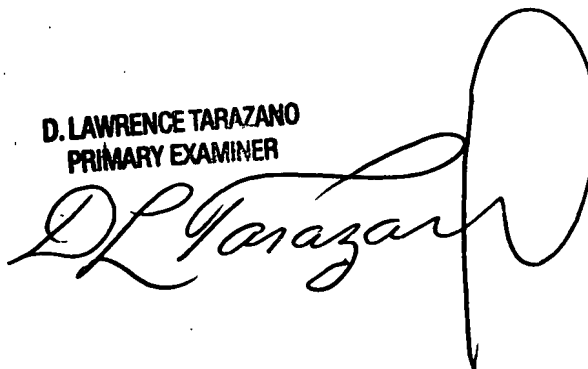
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Erik Kashnikow  
Examiner  
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D. LAWRENCE TARAZANO  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "D. Lawrence Tarazano", with a large, stylized loop at the end of the signature.